REMARKS

Claims 15-29 are pending in the present application. Claims 15 and 21 were amended in this response. No new matter has been introduced as a result of the amendments. Support for the amendments may be found, for example, on page 3, line 12 - page 4, line 8 and page 5, line 30 - page 6, line 10 (see also FIG. 1). Favorable reconsideration is respectfully requested.

Claims 15 and 21 were rejected under 35 U.S.C. §102(e) as being anticipated by *Miller et al.* (US Patent 6,535,911). Claims 16-19, and 23 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Miller et al.* (US Patent 6,535,911) in view of *Lueh* (US Pub 2002/0144240). Claims 20, 22 and 24-29 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Miller et al.* (US Patent 6,535,911) in view of *Lueh* (US Pub 2002/0144240), and further in view of *Atkinson et al.* (US Pub 2002/0012329). Applicants respectfully traverse these rejections.

Specifically, the cited art, alone or in combination fails to teach a system data processor for performing at least one telecommunication activity, the at least one telecommunication activity being exclusively limited to at least one of creating, setting up, implementing, monitoring and terminating a telecommunication connection with the wireless mobile communication network as recited in amended claim 15, and similarly recited in amended claim 21. Also, the prior art fails to teach or suggest "a control data processor that is logically separated from the system data processor, said control data processor automatically executing at least one control instruction sequence stored in the telecommunication module, the at least one control instruction sequence being implemented such that, upon execution, the at least one telecommunication activity is initiated" as recited in amended claim 15, and similarly recited in amended claim 21.

Applicant wishes to note that the present amendments comport with arguments that were submitted in previous responses, and now clarify the scope and content of the claimed features. Specifically, pages 1-2 of the amended specification specify that "telecommunication modules" are defined as telecommunication terminals whose functionality is limited exclusively to setting up, carrying out and terminating telecommunication connections. Accordingly, telecommunication modules do not have devices such as a man-machine interface for direct input and output of data by and to a user. As an example, telecommunication modules include

devices for interfacing with mobile telecommunication networks (e.g., GSM modules for connections to GSM networks) or to fixed telephone networks (e.g., modems). An "external electronic device" includes devices such as personal computers as well as other devices such as measuring instruments (e.g., electricity meters, heating meters, weather stations) which can be controlled via the telecommunication module and/or transmit measured values via the telecommunication module and the corresponding telecommunication network to a central facility (see amended specification page 1, line 12 - page 4, line 8).

Furthermore, the amended claims recite that the control data processor is <u>logically separated</u> from the system data processor. Unlike general purpose computers, the telecommunications modules addressed by the present claims have specific requirements for implementing telecommunications activity. By separating the control data processor from the system data processing, the processing of a control instruction sequence need not be performed inside the system data processor. By configuring a separate control data processor to control the system data processor, control instruction sequences can be developed to establish a coherent control instruction sequence, and linking with the system data processor is assumed by the control data processor. As such, it is comparatively easy for new kinds of applications to be incorporated, modified, or deleted in the telecommunication module (see amended specification page 7, lines 20-30).

Miller is wholly silent on these features. Instead, *Miller* teaches a general purpose computer (155) that is connected to a server (105) for updating distribution media file systems (Abstract, see FIG. 1). It is clear from the disclosure in *Miller* that the disclosed configuration does not teach a system data processor for performing at least one telecommunication activity, where the telecommunication activity is <u>exclusively limited</u> to at least one of creating, setting up, implementing, monitoring and terminating a telecommunication connection with the wireless mobile communication network (see col. 7, lines 29-67).

Similarly, *Miller* fails to teach or suggest a control data processor that is logically separated from the system data processor. The general purpose computer (156) disclosed in Miller uses a single processor, and there is no teaching or suggestion in the disclosure that would necessitate a separation of a control data processor from the system data processor

Also, claim 15 recites a connector for further connecting the control data processor to an external electronic device. In this context, "further" indicates that the connector is not used to connect the telecommunication module to the wireless mobile communication network but instead to the external electronic device. Support for this position can be found in FIG. 1 the present application (connector 40). Even under a "broadest reasonable interpretation," Applicants submit this feature is not taught by *Miller*.

Furthermore, Applicants submit that there is no teaching, suggestion or motivation for one of ordinary skill in the art to combine the *Miller* and *Lueh* references in the manner suggested in the Office Action. As stated previously, *Lueh* does not even mention telecommunication protocols, and the JAVA system is configured to address overhead issues pertaining to the loading of native code into a virtual memory ([0005]). There is nothing that would teach or suggest incorporating the JAVA object method of *Lueh* with the disclosure in *Miller*.

In response to the remarks in the Advisory Action, Applicant maintains that it simply does not make sense to combine the teachings in the aforementioned references. In claim 16 of the present application, the control instruction sequence is recited as containing one of at least one Java 2 MicroEdition byte code instruction and at least one BASIC instruction. Referring back to claim 15, of which claim 16 depends upon, the at least one control instruction sequence is implemented such that, upon execution, the at least one telecommunication activity (creating, setting up, implementing, monitoring and terminating a telecommunication connection with the wireless mobile communication network) is initiated. In *Lueh*, the system is designed to implement virtual JAVA machines on numerous computers to process JAVA bytecodes over multiple platforms ([003]). In the disclosure of [0026-0027], *Lueh* simply discloses the downloading of class files (302) that are subsequently compiled into a native format to be executed directly on the computer hardware. There is nothing in the disclosure of *Lueh* that teaches the execution of the JAVA bytecodes initiates creating, setting up, implementing, monitoring and terminating a telecommunication connection with a wireless mobile communication network.

Furthermore, the Office Action fails to explain why one skilled in the art would turn to the virtual JAVA machines of Lueh, when Miller already discloses a dedicated API for system

communication (col. 6, lines 19-30). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). When the motivation to combine the teachings of the references is not immediately apparent, it is the duty of the examiner to explain why the combination of the teachings is proper. *Ex parte Skinner*, 2 USPQ2d 1788 (Bd. Pat. App. & Inter. 1986). (see MPEP 2142).

Further, the Federal Circuit has held that it is "impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious." *In re Fritch*, 23 U.S.P.Q.2d 1780, 1784 (Fed. Cir. 1992). "One cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention" *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

Moreover, the Federal Circuit has held that "obvious to try" is not the proper standard under 35 U.S.C. §103. *Ex parte Goldgaber*, 41 U.S.P.Q.2d 1172, 1177 (Fed. Cir. 1996). "An-obvious-to-try situation exists when a general disclosure may pique the scientist curiosity, such that further investigation might be done as a result of the disclosure, but the disclosure itself does not contain a sufficient teaching of how to obtain the desired result, or that the claim result would be obtained if certain directions were pursued." *In re Eli Lilly and Co.*, 14 U.S.P.Q.2d 1741, 1743 (Fed. Cir. 1990).

In light of the above, Applicants respectfully submit that claims 15-29 are both novel and non-obvious over the art of record. Applicants respectfully request that a timely Notice of Allowance be issued in this case. If any additional fees are due in connection with this application as a whole, the Examiner is authorized to deduct such fees from deposit account no. 02-1818. If such a deduction is made, please indicate the attorney docket no. (0112740-1019) on the account statement.

Respectfully submitted,

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